

REMARKS

The Examiner required restriction to one of the following inventions under 35 U.S.C. 121:

- I. The compounds according to claim 1 of formula I, wherein n is 0. These are classifiable in class 548, subclass 1+.
- II. The compounds according to claim 1 of formula I, wherein n is 1. These are classifiable in class 544, subclass 1+.
- III. The compounds according to claim 1 of formula I, wherein n is 2. These are classifiable in class 540, subclass 484.
- IV. The compounds according to claim 1 of formula I, wherein n is 3. These are classifiable in class 540, subclass 450.
- V. The process for preparing according to claim 12, wherein n is 0. This process is classifiable in class 548.
- VI. The process for preparing according to claim 12, wherein n is 1. This process is classifiable in class 544.
- VII. The process for preparing according to claim 12, wherein n is 2. This process is classifiable in class 540.
- VIII. The process for preparing according to claim 12, wherein n is 3. This process is classifiable in class 540.
- IX. The method according to claims 13 and 17, where in n is 0. The claims are drawn to a method of treatment that is classifiable in class 514.
- X. The method according to claims 13 and 17, where in n is 1. The claims are drawn to a method of treatment that is classifiable in class 514.
- XI. The method according to claims 13 and 17, where in n is 2. The claims are drawn to a method of treatment that is classifiable in class 514.

XII. The method according to claims 13 and 17, where in n is 3. The claims are drawn to a method of treatment that is classifiable in class 514.

As an initial matter, the Examiner indicates on the Office Action Summary sheet that claims 1-18 are pending in the application. We wish to draw the Examiner's attention to the fact that claims 19 and 20, which were added by the preliminary amendment filed on June 9, 2004, are also pending in the application.

Applicants provisionally elect the Group II invention, the compounds of formula I wherein n is 1, to be examined in the application with traverse. Claim 1 has been amended to be directed to the elected invention by limiting n to 1. No new matter has been added. Claims 1-20 are in the application.

The inventions of Groups I-IV and Groups IX-XII are related as a product and processes of using the product. A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

The inventions of Groups I-IV and V-VIII are related as a product and a process of making the product. A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) the process as claimed can be used to make other and different products; or (B) the product as claimed can be made by another and materially different process.

Applicants respectfully submit that the Examiner fails to provide reasonable examples or explanations to support that the process for using the product as claimed can be practiced with another materially different product, or that the product as claimed can be made by another and materially different process, although the Examiner alleges so.

Furthermore, the search and examination of one of Groups I-IV and its corresponding inventions in Groups V-VIII and Groups IX-XII would not be a serious burden on the examiner because a proper search of the subject matter of Group I-IV would necessarily encompass the search of the corresponding subject matter of Groups V-VIII and Groups IX-XII, as partly evidenced by the

fact that each of the Groups I-IV inventions has the same classification as the corresponding invention in Groups V-VIII.

In view of the foregoing, Applicants respectfully request that any one of the Groups I-IV inventions be examined together with the corresponding claims drawn to a process of making the product in Groups V-VIII and the corresponding claims drawn to processes of using the product in Groups IX-XII.

In case the Examiner maintains the restriction requirement, we wish to point out to the Examiner that a claim drawn to a product is a linking claim, linking a claim directed to a process of making the product and a claim directed to a process of using the product. In the present case, the compound claims are linking claims. Applicants respectfully request that if the linking claims are allowed, the restriction requirement be withdrawn, and that any claims directed to the nonelected inventions, previously withdrawn from consideration, which depend from or include all the limitations of the allowable linking claims be rejoined and be fully examined for patentability.

The Commissioner is authorized to charge any required fees, including extension fees, extra claim fees and any additional required fees, or credit any overpayment, to Goodwin Procter LLP Deposit Account No. 06-0923.

Respectfully submitted for Applicant,



Eva Tan (Reg. No. 46,406)
GOODWIN PROCTER LLP
103 Eisenhower Parkway
Roseland, NJ 07068
(973) 422-7904